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IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE TWENTY NINETH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 15307 of 2004

Between:

R.Beerappa, S/o.Ramaiah, Occ:Business.
R/o.H.No.13-19, Jogipet Village, Andole Mandal, Medak Dist

..... PETITIONER

AND

1. The Commissioner, Prohibition & Excise Dept., Govt. of A.P.,

Hyderabad.
2 The Superintendent, Prohibition & Excise Dept., Medak Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue writ order or direction more particularly one in the nature of writ of "certiorari" calling for the records relating to Cr.No.553/ 2004/B7 dated 12-08-2004 issued by the 2nd respondent and quash the same as illegal, arbitrary, unjust and unconstitutional and contrary to the factual position and population of the Alladurg village in the interest of justice.

Counsel for the Petitioner: MR.M.RATNA REDDY

Counsel for the Respondents: GP FOR PROHIBITION & EXCISE

The Court made the following Order:

Heard both sides and at the request of both the parties, the main writ petition itself is taken up for disposal.

The petitioner, who is a license holder for the purpose of running a Wine Shop in Form No.IL-24 in the name and style of M/s.Renuka Wines, Alladurg, filed this writ petition, inter alia, challenging the impugned proceedings dated 12-08-2004.

The main dispute in this writ petition pertains to the exact population in Alladurg village for the purpose of determining the liability of the petitioner. Having regard to such dispute, at the instance of the petitioner, this Court as per the orders in W.P.No.7640 of 2004 dated 23-04-2004 directed the petitioner therein to file his objections, treating the notice dated 29-03-2004 as a show cause notice, within a period of three weeks from the date of receipt of a copy of this order and on receiving the said objections, the second respondent is directed to decide the same after hearing the petitioner and pass appropriate orders determining the liability of the petitioner, if any. Subsequently, the petitioner filed a detailed representation dated 07-06-2004 along with certain documents in support of the said representation. Though the said representation has not been considered by the second respondent, however, the impugned order dated 12-08-2004 came to be passed without giving

any opportunity to the petitioner. The case of the petitioner is that there is no notice or no opportunity was given to the petitioner to substantiate his case. Further, it is also pointed out that even though the impugned order shows a direction to the second respondent to give an opportunity to the petitioner, but no such opportunity was given to the petitioner. A reading of the impugned order also shows that the representation dated 07-06-2004,which was acknowledged by the office of the second respondent also has not taken up for consideration.

Having regard to the submissions made and having regard to the dispute as to the absence of proper opportunity being provided to the petitioner before the impugned orders are passed, it is not necessary to go into the merits of the case and it would suffice, in the interest of justice, to give an opportunity to the petitioner by conducting enquiry and consider his case along with the material papers sought to be relied on by the petitioner.

Accordingly, the writ petition is allowed and the impugned order dated 12-08-2004 is set aside. The respondents are directed to pass fresh orders on merits in accordance with law, after giving proper notice and opportunity to both sides.

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29-09-2004

kdl

To

1. The Commissioner, Prohibition & Excise Dept., Govt. of A.P.,

Hyderabad.

2 The Superintendent, Prohibition & Excise Dept., Medak District, at Sangareddy.

3 Two C.Cs. to the Government Pleader for Prohibition & Excise,

High Court Buildings, A.P. Hyderabad. (OUT).

4 Two C.D.Copies.